

## **Title 35, Part VIII, Subpart 03 Tobacco Tax**

### **Chapter 01 Cigarette Making Machines; taxability of Tobacco Products**

- 100 Federal guidelines, IRS 26 U.S.C. 5711, 5712, 5713 and 27 CFR Part 40 of the Alcohol and Tobacco Tax and Trade Bureau regulations, require every person, before commencing business as a manufacturer of tobacco products, to apply for a permit from the appropriate federal agency to engage in such business and file a bond. A person shall not engage in business as a manufacturer of tobacco products without a permit to engage in such business. Manufacturing shall include the making of cigarettes by the use of a cigarette making machine on the premises of or in an area controlled by a tobacco retailer.
- 101 A “cigarette making machine” is a machine or mechanical device (designed for commercial use, primarily operated by a power source other than human power, such as electricity) that is loaded with loose tobacco and cigarette tubes, cigarette papers or any substance not containing tobacco for the purposes of producing, filling, rolling, dispensing or otherwise generating cigarettes. Hand-held, manually operated machines sold by retailers to consumers for off-premises use in making cigarettes for personal consumption are not considered cigarette making machines for purposes of this regulation.
- 102 Pursuant to Miss. Code Ann. Section 27-69-15, a tobacco retailer is required to present all un-stamped cigarettes it receives to a permitted wholesaler within 48 hours of receipt for the purpose of having the proper stamps affixed to the cigarettes in the same manner as if the cigarettes had come from the wholesaler.
- 103 In addition to other means of receipt, a tobacco retailer shall be deemed to receive cigarettes if manufactured on-site or in an area controlled on behalf of the tobacco retailer by an employee or agent operating the machine or permitting others, including customers, to operate a cigarette making machine. Therefore, a tobacco retailer must ensure that all cigarettes received via manufacturing by a cigarette making machine as outlined in the preceding sentence are properly stamped.
- 104 Any retailer who assembles cigarettes on-site using a cigarette making machine and who did not sign the 1998 Master Settlement Agreement, as defined in Miss. Code Ann. Section 27-70-3, shall be considered a manufacturer subject to the Nonsettling Manufacturer Cigarette Fee as well as all requirements set forth in Miss. Code Ann. Section 27-70-1, et seq. for nonsettling manufacturers.